NH DEPARTMENT OF CORRECTIONS POLICY AND PROCEDURE DIRECTIVE		CHAPTER Health Services STATEMENT NUMBER 6.45			
SUBJECT:	RELEASE OF MEDICAL INFORMATION	EFFECTIVE DATE REVIEW DATE	02/01/06		
PROPONENT:	Robert MacLeod, Administrative Dir. Name/Title Medical/Forensic Services 271-3707 Office Phone #	SUPERCEDES PPD# DATED	01/01/04		
ISSUING OFFICER:		DIRECTOR'S INITIALS DATE			
William Wrenn, Commissioner		APPENDIX ATTACHED: YES NO			
REFERENCE NO: See reference section on last page of PPD.					

I. PURPOSE:

To provide guidelines for the release of medical information pertaining to current and former Secure Psychiatric Unit (SPU) residents. Residents of SPU shall be afforded reasonable privacy during treatment and privacy and confidentiality of all information contained in health records in accordance with applicable Federal/State statutes and rules and regulations promulgated by the Department of Corrections.

II. <u>APPLICABILITY</u>:

TO ALL SECURE PSYCHIATRIC UNIT RESIDENTS AND STAFF ONLY. New

Hampshire statutes regarding "Confidential Communications," grants the privilege of confidentiality to the resident and shall be upheld by the person who has statutory obligation to do so, i.e., physician, psychologist or pastoral counselor as well as any person working under the supervision of such person. Applicability is to those relations and communications that are essential and within the scope of the relationship between the resident and the person who has the duty to uphold.

III. POLICY:

It is the policy of SPU:

- A. To uphold the principle of confidentiality of the health record and to maintain the health record separately from the confinement record. Access to the health record is controlled by the Medical Record Department. The Treatment Team shares with the Administrative Director information regarding a resident's medical management, security and ability to participate in programs.
- B. That summaries, or copies of the health record accompany the resident to the facility to which they are transferred; and, health record information is also transmitted to specific and designated physicians or medical facilities upon the written authorization of the resident.
- C. That resident access to information in their case (health) record shall be governed according to applicable state laws and federal regulations.

IV. PROCEDURES:

A. CONSENT REQUIRED

1. The written consent of the resident or the resident's authorized representative is required prior to the release of information. Consent is to be given and accepted according to these guidelines:

If the Resident is:

- a. Over 18, competent*
- b. Over 18, incompetent
- c. Under 18, competent
- d. Under 18, incompetent
- e. Deceased

Consent Must be Given by:

- a. Resident
- b. Legal guardian
- c. Parent or legal guardian
- d. Parent or legal guardian
- e. Executor or administrator of the resident's estate (proof of such appointment required) spouse, adult child, parent or sibling (in that order) may consent in absence of court-appointed representatives.
- * Unless the Court finds otherwise and a guardian is appointed, a person is assumed competent under New Hampshire law.
- 2. Written consent obtained at SPU shall be documented on the "Authorization for Release of Information" form (Attachment 1). A properly completed "Authorization for Release of Information" must contain the following entries and components.
 - a. Name of the resident
 - b. Name SPU as the agency requested to make disclosure
 - c. Name and address of person or agency requesting the information
 - d. Specification of the period of confinement involved or other details to further identify the information requested
 - e. Specifications as to the exact nature, description and time frame of information and documents to be released.
 - f. Restrictions to disclosure as identified by the resident or their authorized representative
 - g. Purpose or need for the information
 - h. Statement that the authorization can be revoked and the time period not longer than 6 months
 - i. Statement that redisclosure is prohibited
 - j. Residents' or authorized representatives' signatures
 - k. Date of signature (cannot pre-date the date of admission)
 - 1. Signature of witness
 - m. Statement that says release will be automatically revoked in six months
- 3. Written consent may be documented on a non-SPU authorization form and must include, at a minimum, the following entries; (except cases pertaining to drug and alcohol abuse Fed. Reg. 42CFR, Part 2)
 - a. Name of resident
 - b. Name SPU as the agency requested to make disclosure
 - c. Name and address of person or agency requesting the information
 - d. Specification of the period of confinement involved or other details to identify the information requested
 - e. Purpose or need for information, if not apparent
 - f. Resident's or authorized representative's signature
 - g. Date of signature

The validity of the signature in the medical record and should be checked if there is question as to its authenticity.

- 4. Unless authorized by the Director of Medical Forensic Services, release of information shall be guided by and limited to procedures incorporated herein.
- 5. Release of information shall be documented in the resident's record in all cases in

which clinical information is provided, whether there is an authorization or circumstances do not require an authorization.

- a. The original authorization form shall be filed in the record.
- b. The name of the requestor, the circumstances, date and time of release, the specific information released, the name of the staff member releasing the information shall be documented.
- 6. In the best interests of the resident, care should be taken to release no more information than is necessary to accomplish the purpose as authorized. Any questions or concerns about individual requests should be referred to the Administrative Director.
- 7. Any person (for example, attorney, insurance agent, aftercare agency representative) presenting in person with an appropriate authorization and requesting to review a medical record (direct access) shall be allowed such review only in the presence of a SPU staff member who is adequately familiar with these procedures and the content and format of medical records. Prior to such review, the authorization should be checked to identify the extent of review authorized. Only that portion of the record specified shall be made available to the requestor; other documents shall be removed or their privacy otherwise protected. Cases where full record access has been authorized, documents that are not a part of the SPU clinical record shall be removed. These documents shall include correspondence, abstracts, insurance reports police reports, pre-sentence investigations and any other documents generated by other agencies. Appointments will be made at least (24) twenty-four hours in advance.
- 8. SPU correspondence, outside correspondence, copies (abstracts) of clinical documents from other health care facilities and insurance and collections documents are filed in residents records for the convenience of SPU staff and are not a part of the clinical record. Unless specifically referred to in subpoenas or court orders, these documents are not to be released (attachment 2).
- 9. The following list offers examples of requestors of medical information that are required to have written authorization from the resident or their authorized representative:
 - a. CIA
 - b. Civil Service
 - c. Community Mental Health Centers/Clinics
 - d. Employers
 - e. Extended Care Facilities
 - f. FBI
 - g. Friends
 - h. Hospitals
 - i. Insurance Companies
 - j. Lawyers
 - k. Medicare
 - 1. Outpatient Programs
 - m. Resident or Residents Authorized Representative
 - n. Physicians
 - o. Prisons
 - p. Programs for Substance Abuse Treatment
 - q. Relatives
 - r. Selective Service
 - s. Social Security (some exception)
 - t. Treasury Department
 - u. Veterans Administration (some exception)
 - v. Visiting Nurses Association
 - w. Vocational Rehabilitation
 - x. Welfare

y. Secret Service

B. CONSENT NOT REQUIRED:

Certain circumstances, based upon the Laws of New Hampshire, require that information of a specific nature is released without the resident's or their authorized representative's consent. Significant examples are:

- 1. Division for Children, Youth & Families in Child Abuse and Neglect Cases (Attachment 3).
- 2. Cases of Threatened Harm by Residents: Concern for public safety may make it necessary to contact appropriate public agencies and persons to provide information regarding a resident's threats of harm. Such releases shall be clearly documented in the medical record and shall site the specific threats that were construed as the basis for the releases. Data maybe furnished on the authority of the Commissioner to law enforcement agencies, public safety officials, and others, including individuals and the media, when necessary or prudent in the event that dangerous residents are not in custody through escape or error.
- 3. Department of Corrections Personnel:
 - a. Administration:

The Commissioner, Assistant Commissioner, Director of Quality Assurance, Medical and Administrative Director of Medical and Forensic Services and the Staff Attorney shall have access to resident information upon request. Their assistants when acting in their behalf shall be given resident information.

b. Professional Staff:

Physicians, Psychiatrists, Psychologists, Dentists, Physicians Assistants, Social Workers, Occupational and Recreational Therapists, Nurses and other designated members of the professional staff who are employed by the Department of Corrections shall have access to resident information as it pertains to residents currently here under their care or as necessary for completion of records. Following discharge and record completion, access to records shall be denied except:

- 1) With appropriate authorization;
- 2) If there is a legitimate "need to know" for the purpose of resident treatment or follow-up;
- 3) For purpose of audit or committee responsibility;
- 4) As approved by the Commissioner, Director of Medical Forensic Services, Staff Attorney, Medical Records Stenographer.
- c. Safety Services:

Information shall be given as is necessary to carry out safety service duties.

d. Quality Assurance:

Access to medical information shall be given as necessary for the performance of their duties.

e. Medical Records Department:

Access to medical records shall be given for the performance of duties.

f. Office of Reimbursements:

Access to medical information shall be given as necessary for the performance of duties.

g. <u>Departmental Prison Facilities:</u>

Access to medical records shall be given for continuation of treatment.

- 4. Emergency Release of Information (RSA 622-47):
 - a. In an emergency situation or when an individual's condition precludes the possibility of obtaining written consent, SPU may release pertinent medical information to the medical personnel responsible for the individual's care without authorization if obtaining such authorization would cause delay in delivering important treatment, such that the individual would be harmed significantly if the

treatment is not received in a timely manner.

b. In such circumstances, the staff member responsible for the release shall complete the "Release of Clinical Information Without Authorization" form (Attachment 4). When the form is completed, a copy shall be sent to the resident and so documented.

C. REMOVAL OF RECORDS FROM THE SECURE PSYCHIATRIC UNIT:

Medical records shall not be removed from SPU except under written order of subpoena, court order, the Director of Medical/Forensic Services, the Commissioner, or their designees.

D. <u>SPECIAL CIRCUMSTANCES/CATEGORIES</u>:

1. Education and Research:

Students from other facilities and programs who are in official clinical placements at SPU may be granted access to patient information with the approval of the Director, while the resident is currently housed there. Access to discharge records shall not be allowed without the written consent of the resident or their authorized representative, or as part of a departmentally approved research project. (See PPD 1.09).

2. Resident Access to Records:

Information pertaining to a resident shall be released to the resident upon request according to this procedure:

- a. Requests from residents to examine their medical record shall be referred to the resident's treatment team to assign the appropriate clinician to oversee and assist the resident with their review.
- b. Requests from discharged residents to examine their record shall only be received 8:30 a.m. 3:30 p.m., Monday through Friday, excluding weekends and holidays.
- c. In all cases, a clinician shall be available during the time the resident or former resident is reviewing the record to answer questions and possibly direct the resident to community treatment resources, as needed. The resident shall, under no circumstances be left alone with the medical record.
- d. The resident shall be provided with a copy of documents or of entire record and shall be charged a cost of \$.20 per page.
- e. In all cases, the circumstances of the resident's access to the record shall be documented, and an authorization form shall be completed and filed in the record.
- f. The resident may submit supplemental information either clarifying or rebutting information they deem to be inaccurate. These documents shall be placed in the resident's medical record, in the correspondence section. Copies of these documents shall be included with information released to third parties from that point on.

3. Accrediting and Review Agencies:

- a. Representatives and surveyors of the Joint Commission on Accreditation of Hospitals, if applicable, American Correctional Association, Medicare, the National Institute of Mental Health, Medicaid, Professional Review Organizations, shall be granted access to any medical information deemed necessary and/or required by contract, in the course of the survey or review processes.
- b. The Director of Medical Forensic Services under such restrictions as may be appropriate may grant access by other agencies.

4. Division of Mental Health and Developmental Services Personnel (RSA 622:47):

- a. The division director shall be provided information upon receipt without authorization of the resident or their authorized representative to the extent that it facilitates treatment.
- b. Other employees of the division may be granted access to information as

- delegated by the director of the division and RSA 126, which defines the duties and responsibilities of the Office of Reimbursements.
- c. In cases where SPU is the petitioner for Social Security benefits of a resident who is incapable of handling their own financial affairs, the Administrative Director authorizes the petition process and Social Security forms should provide for authorization to release information and this shall be obtained if the Social Security forms do not provide authorization.

5. Department of Health and Human Services (RSA 622:47):

- a. Limited access to information shall be given as required by statute (attachment 5).
- b. RSA 141-C:7 requires SPU to report communicable diseases on a form specified by statute.

6. Attorney General's Office:

- a. The Attorney General's Office shall have access to resident information in cases in which its agents are defending SPU in legal actions. The Administrative Director of SPU shall coordinate such access.
- b. The Attorney General's Office has statutory authority to investigate state agency operations under certain circumstances. Approval to release information in this instance shall be sought from the Administrative Director of SPU.
- c. When representing SPU in probate or superior court proceedings, the Attorney General's Office shall have unlimited access to resident information, inclusive of non-clinical documents.
- d. Consultation with the staff attorney is always advisable when dealing with the Attorney General's Office.

7. <u>Courts</u>:

a. <u>Probate Court</u>:

- 1) In petitioning for involuntary commitment or guardianship, a court order shall be sufficient in order for the resident's record to be taken to court for reference in the proceedings.
- 2) Attorneys and physicians appointed by the Court to represent residents in Involuntary Commitment and Guardianship hearings shall have unlimited access to the patient's record, including third party information, upon verification of their appointment. Such access shall be documented.

b. <u>Superior or District Court:</u>

Court orders received from superior or district courts shall be checked with the departmental staff attorney prior to release of information to enable the staff attorney to evaluate the scope and reach of the order to determine whether or not the order, is appropriate or if an amendment is necessary, or if a hearing should be sought.

c. <u>Subpoena/Court</u> Order:

- 1) A subpoena pertinent to the case shall be served with proper fee guarantees and with allowance for the time necessary to prepare the documents, if possible.
- 2) All subpoenas shall be referred to the staff attorney or, in their absence, the Director of Medical Forensic Services for review. In the event the resident whose record is sought is not a party to the litigation or if the record appears irrelevant to the proceeding, the staff attorney or, in their absence, the Director of Medical Forensic Services shall decide the necessary course of action. (This may include consultation with the Attorney Generals Office).
- 3) SPU shall not honor out-of-state subpoenas or court orders without prior consultation with the staff attorney.
- 4) Court orders may be necessary to cause the release of records in court

proceedings involving residents who have been treated for substance abuse. Such orders shall be brought to the attention of the staff attorney.

5) A certified copy (attachment 6) of the resident's record shall be provided to the court, if acceptable by the court.

8. <u>Telephone Requests</u>:

- a. The fact of resident status at SPU is privileged information, and staff shall make every effort to protect a resident's right to privacy.
- b. Telephone requests for information concerning a resident, when the caller is not known by the staff member taking the cell to be an authorized person to receive the information, should be referred to the Administrative Director, the staff attorney, or the Commissioner's Office. Annotations of such inquiries, including the identity of the caller, should be made in the medical record of the resident involved.

9. Governor's Office:

All inquiries will be referred to the Commissioner, Assistant Commissioner or staff attorney.

10. News Media:

No member of the SPU staff is authorized to release any information to, or answer any inquiries from, any member of any news media about any aspect of SPU, its staff, its residents, or its operations. Any and all questions from members of the news media are to be referred to the Office of the Commissioner or Department of Corrections, Public Information Officer (see PPD 1.13).

11. Records in Locked File:

- a. In case of a need for special protection, certain records may be kept in locked files in the Medical Records Department, access by medical record personnel only.
- b. Such records involved in litigation shall have a special listing kept on the front cover of record movement.
- c. Care shall be taken in providing original records to SPU personnel who are involved in litigation in which residents' records may be involved. Photocopies shall be provided to these persons if record review becomes necessary for court preparation. Such provision shall be documented.

12. Photocopies:

- a. Copies of medical record documents shall be limited to the information specified on the Release of Information Form.
- b. Second or convenience copies of medical record documents will not be made by or for staff members or others.
- c. The cost of copies shall be consistent with the rates set in PPD 7.42.

REFERENCES:

Standards for the Administration of Correctional Agencies Second Edition, Standards Standards for Adult Correctional Institutions
Fourth Edition Standards

4-4396; 4-4414 (SPU ONLY)

Standards for Adult Probation and Parole Field Services
Third Edition. Standards

Standards for Adult Community Residential Services
Fourth Edition Standards

MACLEOD/pf

Other

Attachments

RSA 622-47 Emergency Release of Information RSA 141-c:7 Reporting Communicable Diseases

AUTHORIZATION FOR RELEASE OF INFORMATION

Secure Psychiatric Unit Box 2828 Concord, NH 03302-2828

	·	hereby authorize		
to release con	(Name & Address of Per fidential information from the psychiatric/medi	rson/Agency making disclosure)		
to release con	indential information from the psychiatric/medi	to		
Name of P	ratient or Former Patient	His/Her Date of Birth		
	on or Agency:			
Address:				
Capacity:		For the purpose of (please specify):		
The informati	on to be released pertains to and/or may includ	For the purpose of (please specify): e (please specify dates of admission, period of		
treatment, typ	es of reports, etc.):			
I understand t	hasa facts ragarding spacial release of informat	ion by		
i understand t	nese facts regarding special release of mornal	o covered for Drug and Alcohol Abuse, 42 CFR, Part 2)		
1.	Information may only be released which is	considered necessary to fulfill the purposes as stated in		
	the authorization.	, 1 1		
2.	. Release of information may result in advantages and disadvantages to the patient or former			
		former patient should be served by the release of		
	information.			
3.	Consent for release of information is not a			
4.	This authorization may be revoked at any time, except to the extent that action has been take or information disclosed prior to the date of revocation.			
5.		Release of information directly to a patient or former patient shall be under the supervision of an appropriate member of the Unit's professional staff.		
6.		rsons and agencies outside of the Unit is prohibited;		
		however, such disclosure is out of the control of the Unit.		
7.	The authorization shall expire automaticall or expressly terminated.	The authorization shall expire automatically six months from the date of signature, unless revoked		
I hereby give	this consent freely and voluntarily and acknow	ledge an expiration of this authorization of:		
		Expiration date - not to exceed 6 months		
Signed this	day of			
Signature o	of Patient/Former Patient	Signature of Parent/Authorized Representative		
Signature	of Witness	Nature of Relationship		
		ocument what information was released, whether copies		
or by chart rev	view, to whom, the date and by whom.			
NH D	DEPARTMENT OF CORRECTIONS	PATIENT IDENTIFICATION		
SECURE PSYCHIATRIC UNIT				
	THORIZATION FOR RELEASE OF			
	INFORMATION			

SPU 28 REV. 8/89

> Attachment 2 Page 1 of 3

PREPARATION OF RECORD IN RESPONSE TO SUBPOENA (Certified copy)

- 1. Preparer shall remove all documents in the record that are not an official part of the clinical record (attachment 2; page 2).
- 2. Preparer should number in pencil all pages of record; numbers should be written on lower left corner so that they will show upon copy.
- 3. Shingled lab mounts should be numbered and the individual lab report lettered after photocopying (e.g. mount sheet Secure Psychiatric Unit 6, lab reports 6a, 6b, 6c)
- 4. The record should be photocopied.
- 5. Photocopied documents should be filed in a hospital permanent folder according to the current file index. The outside front cover should have the patient's name and records number written on it an the statement "Photocopied Medical Records Confidential."
- 6. A certification form (attachment 2; page 3) should be prepared. The certification should be signed and taken for notarization by a notary or Justice of the Peace.
- 7. A copy of the certification along with the originally received subpoena (which should be date stamped into the Medical Records Department) should be filed in the original medical record. A copy of the subpoena should be made.
- 8. A large envelope should be prepared and the following information handwritten on the front: The title of the court action and name of the Clerk of Court and docket number, if possible.
- 9. In the event the certified copy is to be mailed (Return Receipt Requested only), the envelope should include the name and address of the Clerk of Court. The receipt should also have a special typed addition at the bottom indicating: PLEASE RETURN THIS RECEIPT TO: Medical Records Department, Secure Psychiatric Unit. A self-addressed, stamped envelope is attached for your use.
- 10. In the event of in-person delivery, the notarized certificate should be stapled to the front cover of the photocopied chart, the chart placed in an envelope, and the envelope sealed.
- 11. The receipt should be attached to the front of the envelope along with a copy of the subpoena or reference.
- 12. Once the record has been delivered, the signed receipt should be filed in the original medical record in the fame filing section as the other related documents.

Attachment 2 Page 2 of 3

PHOTOCOPYING

DO NOT RELEASE THE FOLLOWING:

Record of photostatic copies
BC/BS request
Correspondence
Outside abstracts from other facilities/hospitals
Letters
Hearing notices
Police reports
Guardian checklist
Guardian papers
Guardian evaluation
Photographs

Record of visitors Evaluation of work/employment

Attachment 2 Page 3 of 3



STATE OF NEW HAMPSHIRE

Division of Medical and Forensic Services

PO Box 2828 CONCORD, NH 03302-2828 603-271-1843 FAX: 603-271-1836 TDD Access: 1-800-735-2964 William Wrenn Commissioner

RECEIPT FOR ORIGINAL MEDICAL RECORDS

OR CERTIFIED MEDICAL RECORD COPY

DATE:	
RECEIVED OF SECURE PSYCHIATRIC U	NIT, P.O. BOX 2828, CONCORD, NEW HAMPSHIRE
03302-2822, MEDICAL RECORD NUMBE	ROFCONSISTING
	(Name of Patient
OF A TOTAL OF PAGES.	
· · · · · · · · · · · · · · · · · · ·	L RECORD OR A CERTIFIED COPY, SHALL BE RIC UNIT MARKED TO THE ATTENTION OF THE N COMPLETION OF THIS LITIGATION.
	Signature, Clerk of Court
	Court
	Telephone Number

Medical Records Department

Policy/Procedure: Release of Medical Information in Child Abuse Cases

Reference: RSA 169-C; 169-C:34, III

- 1. State statute grants the Division of Children and Youth access to the medical records of person(s) involved in child abuse proceedings. The basis for such request on the part of the Division is that there is an expectation the medical record will provide information relative to the nature of the proceedings. Personnel shall abide by these statutes by following the procedures below.
- 2. In the circumstance of such request by staff members the Division of Children and Youth, Medical Records personnel should verify that there is a record and if so, should ask for a written request addressed to the Secure Psychiatric Unit preferably on Division of Welfare stationery, which contains this information:
 - a. Name of patient
 - b. Extent of information needed
 - c. Reason for request (specific child abuse proceeding, court and docket number)

It should be possible to obtain such request letter in most cases since Division personnel may pick photocopies up in person or review the original record on site.

The request should be filed in the patient's record, the necessary copies made, and documentation done of the release. Copies should be stamped "NOT FOR REDISCLOSURE."

- 3. In the event the time frame or situation will not accommodate provision of a request letter due to an emergency, medical records personnel should verify that there is a record and call the division representative back to verify the origin of the request call. Release may be made without written request, but the circumstances should be thoroughly documented as a medical records progress note to be signed by the releasing person and filed in the legal section of the chart. But, in all cases, the request should be honored whether or not release was prior to its receipt.
- 4. Photocopies should be at no cost. It should be recommended in all cases that the division investigator review the record in person (identification required) to delineate the extent of information needed.

RELEASE OF INFORMATION WITHOUT AUTHORIZATION

Secure Psychiatric Unit policy states that in a life-threatening situation or when an individual's condition or situation precludes the possibility of obtaining written consent, the Secure Psychiatric Unit may release pertinent medical information to the medical personnel responsible for the individual's care, immediate family or contact person without authorization, if obtaining such authorization would cause excessive delay

in delivering treatment to the individual.

When information has been released based upon this guideline, the staff member responsible for releasing the information shall complete the following details pertinent to the transaction. The completed form shall

be filed in the patient's record and a copy shall be sent with a notification letter to the patient or former patient. A copy of the notification letter shall also be filed in the record.

THIS FORM AND THE ASSOCIATED POLICY ARE NOT INTENDED TO RELEASE THE REQUIREMENTS FOR CONFIDENTIALITY OF PATIENT INFORMATION. THE FOLLOWING IS TO BE COMPLETED BY THE PERSON WHO RELEASED THE INFORMATION OR AUTHORIZED ITS RELEASE:

Person	/Agency & Address to whom information is rele	ased:	
Reason	n for releasing information:		
Reason	n consent could not be obtained:		
Nature	and details of the information given:		
Inform	ation released by	Patient's name	
Date in	nformation was released	Patient #	Patient DOB
NOTIF	FICATION OF THE RELEASE OF INFORMAT	ΓΙΟΝ MUST BE SENT TO T	HE RESIDENT OR
FORM	ER RESIDENT.		
Date co	opy of form sent to resident or former resident: _		
	SECURE PSYCHIATRIC UNIT	PATIENT IDENTIFICAT	TION
	RELEASE OF INFORMATION WITHOUT AUTHORIZATION		